

REMARKS

The Examiner's comments together with the cited references have been carefully studied. Favorable reconsideration in view of the foregoing amendments and following remarks is respectfully requested.

Relying on 35 U.S.C. 102(e), the Examiner rejected claims 1-4 and 6-18 as being anticipated by Poncelet (WO/2004/009368). Applicants respectfully submit that while Poncelet discloses an inkjet recording element comprising an ink-receiving layer comprising at least one hydrosoluble binder and at least one hybrid aluminosilicate polymer obtainable by the steps recited in the present claimed invention, Poncelet does not anticipate the present claimed invention, as Poncelet does not disclose where such ink-receiving layer also comprises inorganic particles as required by the present claimed invention (see last line of claim 1). While the Examiner notes that Poncelet discloses use of sodium, potassium or lithium hydroxide at page 8, lines 4-5 and colloidal silica at page 3, line 4, these are not disclosures of inorganic particles employed along with the hybrid aluminosilicate polymer in the ink-receiving layer, but rather page 8, lines 4-5 relates to aqueous solutions of such referenced sodium, potassium or lithium hydroxide which may be used as an alkali added to the precursor or to the modified mixed aluminum and silicon alkoxide in the formation of the hybrid aluminosilicate polymer itself (see page 7, line 26 to page 8, line 19), and page 3, line 4 refers to the prior art use of colloidal silica in receivers (i.e., employed in the absence of the hybrid aluminosilicate polymer which Poncelet itself is directed towards). Accordingly, Poncelet does not disclose the required claim combination of hybrid aluminosilicate polymer and inorganic particles, and thus does not anticipate the present claimed invention. Reconsideration of this rejection is accordingly respectfully requested.

Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Poncelet and further in view of Liu (US 5,958,168). Following is a statement of common ownership at the time of the invention, which prevents the use of the Poncelet 102(e) reference for use under 35 USC 103:

STATEMENT OF COMMON OWNERSHIP

The subject matter of WO 2004/009368 and the claimed invention were, at the time the claimed invention was made, owned by or subject to an obligation of assignment to Eastman Kodak Company.

Withdrawal of the rejection of claim 5 as being unpatentable over Poncelet in view of Liu is accordingly respectfully requested.

Claims 1-10, 17, and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Liu (US 6,548,149). The Examiner states: Liu discloses an ink recording element formed on a substrate and including a binder and particles of silica prepared by wet method and/or aluminosilicate agglomerated with each other without binder (abstract); Liu further discloses that the aluminosilicate can be produced by subjecting a mixture containing, as principal components, aluminum alkoxide and silicon hydroxide for a hydrolysis (controlled) procedure, and are a complex product comprising alumina moieties and silica moieties which are closely combined with each other to such an extent that these moieties cannot be isolated from each other; usually, in the aluminosilicate particles, the alumina moieties (Al_2O_3) and the silica moieties (SiO_2) are contained in a weight ratio (Al/Si) of 1:4 to 4:1, preferably about 6:2 (column 9, lines 44-53); Liu demonstrates that the preparation of aluminosilicate is conducted by hydrolysis and results in a specific ratio range relative to Al/Si; one skilled in the art would conduct such a synthesis to produce the desired ratio similar to the applicant; and Liu teaches the preparation of aluminosilicate and its use in ink receiving layers. This rejection is respectfully traversed.

The present claims require use of a hybrid aluminosilicate polymer obtained by a specified preparation method by either treating a mixed aluminum and silicon alkoxide of which the silicon has both hydrolyzable substituents and a non-hydrolyzable substituent, or a mixed aluminum and silicon precursor resulting from the hydrolysis of a mixture of aluminum compounds and silicon compounds only having hydrolyzable substituents and silicon compounds having a non-hydrolyzable substituent, with an aqueous alkali, in the presence of silanol groups. In accordance

with the claimed invention, the presence of such non-hydrolyzable group results in a hybrid aluminosilicate polymer, i.e., an aluminosilicate which retains such non-hydrolyzable group covalently bonded to silicon (see, e.g., definition of “non-hydrolyzable substituent” expressly set forth at page 4, lines 8-13 of the specification, where it is explained that such non-hydrolyzable substituent does not separate from the silicon atom during the process, while hydrolysable substituents are eliminated by hydrolysis in the same conditions). **Use of such a hybrid aluminosilicate polymer obtained from silicon compounds having non-hydrolyzable substituents is clearly not taught or suggested by Liu et al., as such reference only disclose use of fully alkoxyated (i.e., all hydrolyzable groups) silicon compounds in the preparation of the aluminosilicates thereof (see, e.g., use of ethyl orthosilicate at col. 23, line 15 of Liu et al).** Thus, such aluminosilicate polymers themselves are clearly distinct, and Liu et al does not suggest the use of a hybrid aluminosilicate polymer in accordance with the present invention.

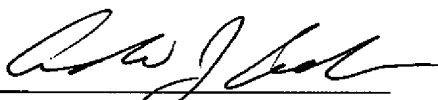
As the claimed product-by-process composition requires use of non-hydrolyzable substituents in the compounds used to form the hybrid aluminosilicate polymer, and as non-hydrolyzable substituents are expressly defined in the specification as being substituents that are not separated from the silicon atom during the described method of formation of the hybrid aluminosilicate polymer, the non-hydrolyzable substituents by definition are necessarily present in the resulting hybrid aluminosilicate polymer. Accordingly, even if one were to employ the distinct aluminosilicate material of Liu in combination with organic particles, the present claimed invention employing a hybrid aluminosilicate polymer with retained non-hydrolyzable substituents bonded to silicon atoms in combination with inorganic particles still would not be obtained. Thus, the proposed rejection represents clear error, and withdrawal thereof is respectfully urged.

In the interview Summary mailed April 29, 2009, the Examiner states that Applicants have been informed that once a response to the 1st office action is received a provisional obvious type double patenting rejection will be issued with respect to co-pending applications 10/563694, 10/578205, 10/578810,

and 10/521898. To advance the present application to issuance, Applicants submit herewith Terminal Disclaimers with respect to such co-pending applications, mooted such proposed provisional obvious type double patenting rejections.

In view of the foregoing remarks and amendment, the claims are now deemed allowable and such favorable action is courteously solicited. Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

Respectfully submitted,



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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.